

Public Law 26-111

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MINA'BENTE SAIS NA LIHESLATURAN GU^U HAN

2002 (SECOND) Regular Session

Bill No. 323 (COR)

As amended by the Committee on Rules, General Governmental Operations, Reorganization, Reform, and Federal, Foreign and General Affairs and further amended.

Introduced by:

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AN ACT TO *ADD* ARTICLE 13 TO CHAPTER 5 OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING MINIMUM AND PREVAILING WAGE DETERMINATIONS, LEAVE REQUIREMENTS AND BENEFIT REQUIREMENTS FOR EMPLOYEES OF SERVICE AND OTHER CONTRACTORS OF THE GOVERNMENT OF GUAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § § § § § § Legislative Findings and Intent. *I Liheslaturan Guå,han* finds that there are no prevailing wages, or set benefits, established for employees of private contractors awarded service and other contracts by the government of Guam, *except* to the extent that the minimum wage law applies, and specifically to the extent that the Federal prevailing wage applies to construction contractors.

This lack of minimum standards sets an insecure and uneven playing field for businesses wishing to do business with the government of Guam in the service area. Moreover, and more critically, it

forcefully depresses wages and benefits among employees of firms doing business with the government of Guam, as firms are compelled to reduce bids in order to remain competitive with other bidders

. *I Liheslaturan Guahan*

finds this to be inequitable and detrimental for the employees of these private firms.

Section 2. Article 13 is hereby *added* to Chapter 5 of Title 5 of the Guam Code Annotated to read as follows:

ARTICLE 13.

WAGE AND BENEFIT DETERMINATION.

Section 5801. Wage Determination Established. In such cases where the government of Guam enters into contractual arrangements with a sole proprietorship, a partnership or a corporation (a "contractor") for the provision of a service to the government of Guam, and in such cases where the contractor employs a person(s) whose purpose, in whole or in part, is the direct delivery of service contracted by the government of Guam, then the contractor shall pay such employee(s) in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to the government of Guam.

The Wage Determination most recently issued by the U.S. Department of Labor at the time a contract is awarded to a contractor by the government of Guam shall be used to determine wages, which shall be paid to employees pursuant to this Article.

Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be made stipulations contained in that contract for applying the Wage Determination, as required by this Article, so that the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date shall apply.

Section 5802. Benefits. In addition to the Wage Determination detailed in this Article, any contract to which this Article applies shall also contain provisions mandating health and similar benefits for employees covered by this Article, such benefits having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor,

and shall contain provisions guaranteeing a
(10) paid holidays per annum per employee.

minimum of ten

Section 5803. Department of Labor Monitoring and Penalizing Authority. The
Guam Department of Labor, or its successor, shall monitor compliance with the provisions of
this Article.

The Director of the Department of Labor, or that person's successor, shall investigate
possible or reported violations of the provisions of this Article, and shall forward such findings
to the Chief Procurement Officer of the General Services Agency, or that person's successor.

The Department of Labor, or its successor, shall promulgate rules and regulations, pursuant to
the Administrative Adjudication Law, as needed to ensure the equitable investigation of
violations and the maintenance of due process, as well as the assessment of monetary
penalties in the event of a violation, providing that such monetary penalties shall be limited to
the assessment of daily penalties of *no less than* One Hundred Dollars (\$100.00) per day, and
no more than One Thousand Dollars
(\$1,000.00) per day, until such time as a violation has been corrected, as well as the payment
of all back wages and benefits due.

Section 5804. Probation and Appeal. A contractor who violates the
provisions of this Article, as determined by the process authorized in 5803 of this Article,
may be placed on a probationary status by the Chief Procurement Officer of the General
Services Agency, or its successor, for a period of one (1) year.

During such probationary status, a contractor shall
not
be awarded any contract by any instrumentality of the government of

Guam
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A contractor who has been placed on probationary status pursuant to this Article, or who has
been assessed a monetary penalty pursuant to this Article, may appeal such penalty or
probationary status to the Superior Court of Guam.®